

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BUWLUS A. MUHAMMAD,  
Plaintiff,

v.

MARK DIVECCHIO, et al.,  
Defendants.

Civil Action No. 07-167 Erie

**MEMORANDUM ORDER**

This civil rights action was received by the Clerk of Court on July 6, 2007, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 2], filed on July 11, 2007, recommended that the matter be dismissed as legally frivolous in accordance with 28 U.S.C. § 1915(d). Plaintiff was allowed ten (10) days to file objections and service was made on Plaintiff by certified mail. No objections were filed by Plaintiff; however, in lieu of objections Plaintiff filed a Motion to Amend his complaint [Doc. No. 4]. Plaintiff's proposed Amended Complaint merely repeats in greater detail the same allegations against Defendant Foulk as stated in the original Complaint. *See Motion to Amend*. Because Defendant Foulk has absolute immunity, *see Imbler v. Pachtman*, 424 U.S. 409, 420 (1976), and Plaintiff's proposed Amended Complaint is merely an amplification of the previous allegations against Defendant Foulk, such amendment would be futile. *In re NAHC, Inc. Securities Litigation*, 306 F.3d 1314, 1332 (3<sup>rd</sup> Cir. 2002).

After de novo review of the motion and documents in the case, together with the Report and Recommendation and Motion to Amend, the following order is entered:

AND NOW, this 29<sup>th</sup> day of August, 2007;

IT IS HEREBY ORDERED that Plaintiff's Motion to Amend [Doc. No. 4] is DENIED as futile, and the matter is DISMISSED as legally frivolous in accordance with

28 U.S.C. § 1915(d).

The Report and Recommendation [Doc. No. 2] of Magistrate Judge Baxter, filed on July 11, 2007, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge